

# United States Court of Appeals For the First Circuit

No. 13-1254

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UNITED STATES,

Appellee,

v.

JOSE REYES, a/k/a Tony,

Defendant, Appellant.

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Before

Lynch, Chief Judge,  
Torruella and Thompson, Circuit Judges.

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## JUDGMENT

October 6, 2014

Defendant-appellant Jose Reyes pleaded guilty to his part in illegal drug sales in Manchester, New Hampshire. The plea was pursuant to a plea agreement with the United States that contained a provision waiving defendant's appellate rights. Reyes had prior drug convictions in his criminal history, and the floor of the sentencing range applicable under the United States Sentencing Guidelines was 168 months, but the plea stipulated a maximum prison term of 151 months. (Two co-conspirators of Reyes with lesser criminal histories were prosecuted in state court, and each received actual prison time of only a few weeks.)

At sentencing, the government argued for 151 months imprisonment and the defense recommended 84 months imprisonment. The district court chose a sentence of 120 months imprisonment, which it explained in terms of the seriousness of Reyes' criminal activity balanced against the severe hardships in Reyes' life and his efforts at rehabilitation in custody.

On appeal, the defense argues that the sentence was not reasonable and amounts to a miscarriage of justice. The government moves for summary affirmance on the basis of the plea agreement's waiver of appellate rights, and argues that the sentence is not even assailable under ordinary reasonableness review. We see little to indicate that the sentencing outcome or the district court's explanation for it was unreasonable in the procedural sense or the substantive sense, and conclude that this appeal does not approach the threshold for a miscarriage of justice.

The government's motion for summary disposition is allowed and the judgment is summarily **affirmed**.

By the Court:

/s/ Margaret Carter, Clerk

cc:

Donald A. Feith

Seth R. Aframe

Paul J. Garrity

Jose Reyes